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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,690	03/11/2004	Lester Derbis	20556-74748	6198
23643	7590	12/29/2005	EXAMINER	
BARNES & THORNBURG 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204			JACKSON, ANDRE L	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/798,690	DERBIS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andre' L. Jackson	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

*DETAILED ACTION*

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 11, 2005 has been entered.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-13 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,269,521 to Gabel. Gabel discloses a hinge system useable with a closure (20) of a motor vehicle, the hinge system including a lower link bracket (18) to be secured to the closure, an upper link bracket (12) to be secured to the vehicle body, and pivoting links (72, 74) connected between the upper and lower brackets, wherein each pivoting link has a first end pivotally connected to the upper link bracket and a second end pivotally connected to the lower link bracket, the hinge system comprising;

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a driving arm (76) having a proximal end and a distal end, the driving arm being pivotal about the proximal end (98), a driver (100) configured to drive the driving arm about its proximal end, a track (28) to be carried by the closure and the distal end (104) of the driving arm being coupled to the track, the distal end of the driving arm moves along the track as the driving arm is pivoted about its proximal end.

As to claims 2-5, 10-13 and 18, Gabel discloses that track defines a sliding channel at the upper link bracket as an extension of the upper link bracket, wherein a corresponding bearing (106) attached at the distal end of the driving arm is coupled to the sliding channel and movable there along at different positions.

As to claims 7, 8, 15 and 16, the hinge system of Gabel can be configured to be placed in a central region of the closure in a longitudinal direction of the motor vehicle (col. 2, lines 55-63).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gabel in view of USPN 6,789,834 to Schlegel. Gabel discloses that the driver in the preferred embodiment may be either a gas spring or helical spring or a similar element known within the art that biases or drives a closure member in an open/closed positions relative to a vehicle body.

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However, Gabel does not specifically disclose that the driver is an electromechanical driver defining an output shaft coupled to an end of the driving arm as claimed. Schlegel teaches a drivable hinge useable with a flap or lid of a motor vehicle, the hinge including a lower link bracket (3) to be secured to the vehicle body, an upper link bracket (2) to be secured to the flap or lid, and pivoting links (6, 7) connected between the upper and lower brackets. A driving arm link (18) is provided having a proximal end and a distal end, the driving arm being pivotal about the proximal end, an electro-mechanical driver (16) is configured to drive the driving arm about its proximal end, and a track (5) is coupled to the distal end of the driving arm such that the proximal end of the driving arm pivots. The electro-mechanical driver is an electrical motor having an output shaft in the form of gears and shaft (17) coupled to the proximal end of the driving arm, the electro-mechanical driver is arranged as an extension of the driving arm link such that the mounting of the driver is without a need to create a special installation space and further since the driver as an extension of the driving arm link is in parallel orientation the electro-mechanical driver can advantageously follow the pivoting motion of the driving arm link during motion of a flap or lid without obstructing the pivoting motion of the flap or lid, thus eliminating extra mechanical parts and limiting installation space constraints. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention was made to modify the hinge system of Gabel to include the drivable hinge device as taught by Schlegel to provide an enhanced automatic hinge system useable with a flap, lid or closure member to drive the closure member from opening and closing positions without obstructing the pivoting motion of the flap or lid, thus, eliminating extra mechanical parts and limiting installation space constraints.

***Response to Applicant's Arguments***

In response to applicant's amendment filed September 9, 2005 with respect to rejection of claims 1-19 over Schlegel have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of previously cited prior art reference #6,269,521 to Gabel. Gabel has been applied singly and in combination with Schlegel to meet the limitations of applicant's claims as presently presented. Accordingly, claims 1-5, 7-13 and 15-18 are found to be unpatentable over Gabel and claims 6, 14 and 19 are found to be unpatentable over Gabel in view of Schlegel.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson  
Patent Examiner  
AU 3677

ALJ

  
ROBERT J. SANDY  
PRIMARY EXAMINER